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**PROPOSED COUNSEL FOR THE DEBTORS,  
DIAMONDBACK INDUSTRIES, INC., *et al.***

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

<b>IN RE:</b>	§	<b>CHAPTER 11</b>
	§	
<b>DIAMONDBACK INDUSTRIES, INC., <i>et al.</i>,<sup>1</sup></b>	§	<b>CASE NO.: 20-41504-ELM-11</b>
	§	
<b>DEBTORS.</b>	§	<b>JOINTLY ADMINISTERED</b>

**WITNESS AND EXHIBIT LIST FOR JULY 28, 2020 HEARING**

Diamondback Industries, Inc. and its debtor affiliates (collectively, the “**Debtors**”). Hereby submit this Witness and Exhibit List for July 28, 2020 hearing (the “**Hearing**”) in connection with the following matters:

- (i) *Debtors’ Motion to Reopen the Evidentiary Record on Motion to Terminate Exclusivity* [Docket No. 333];
- (ii) *Motion to Terminate Exclusivity* [Docket No. 82]; *UMB Bank, N.A.’s Response to Motion of Repeat Precision, LLC To Terminate Exclusivity* [ECF 82] [Docket No. 192]; *Reply Of Repeat Precision, LLC In Support Of Motion For Relief From Stay* [Docket No. 193]; *Debtors’ Response And Objection To Motion Of Repeat Precision, LLC To Terminate Exclusivity* [Docket No. 211]; *Joinder In Response Of Debtors And Response To Motion Of Repeat Precision, LLC To Terminate Exclusivity filed by Derrek*

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<sup>1</sup> The debtors in these Chapter 11 Cases, along with the last four digits of each debtor’s federal tax identification number, include: Diamondback Industries, Inc. (4403) (“**Diamondback**”); Discerner Holdings, Inc. (5110) (“**Discerner Holdings**”); and Discerner Investments, LLC (3076) (“**Discerner Investments**”). The location of the debtors’ service address is 3824 Williamson Road, Crowley, Texas 76036.

*Drury* [Docket No. 218]; *Supplement Of Repeat Precision, LLC To Its Motion To Terminate Exclusivity* [Docket No. 272]; and *Debtors' Response to Supplement of Repeat Precision, LLC* [Docket No. 297];

- (iii) *Motion of Repeat Precision, LLC, for Limited Relief from the Automatic Stay to Prosecute TUFTA Claims against UMB Bank, N.A., and Brief in Support Thereof* [Docket No. 118]; *UMB Bank, N.A.'s Opposition to Repeat Precision, LLC's Motion for Limited Relief from the Automatic Stay to Prosecute TUFTA Claims against UMB Bank, N.A., and Brief in Support Thereof* [Docket No. 182]; *Supplement of Repeat Precision, LLC in Support of Motion for Relief from the Automatic Stay to Prosecute TUFTA Claims against UMB Bank, N.A.* [Docket No. 259]; *Debtors' Objection to Repeat Precision, LLC's Supplement to its Motion for Relief from the Automatic Stay to Prosecute TUFTA Claims against UMB Bank, N.A.* [Docket No. 287]; and
- (iv) *Motion Approving Use of Paycheck-Protection-Program Funds in the Ordinary Course of Business or, in the Alternative, Authorizing Diamondback Industries, Inc. to Incur Postpetition Financing Pursuant to 11 U.S.C. §364(a) or (b)* [Docket No. 282].

#### **I. WITNESSES**

Debtors designate the following persons who may be called as witnesses to testify at the Hearing:

1. Cade Kennedy;
2. Benton Cantey;
3. Grant Martin;
4. Gary Martin;
5. Robert Nipper;
6. The Honorable Russell Nelms;
7. Roger Williams, U.S. Representative, 25th District of Texas (by live testimony, video deposition, and/or transcript);
8. Kyle Hirsch;
9. Lee Anderson (by live testimony, video deposition, and/or transcript);

10. Michael Garner;
11. Davor Rukavina;
12. Mark Andrews;
13. Travis Vandell;
14. Any witness called or designated by another party; and
15. Any rebuttal or impeachment witnesses, as necessary.

## II. EXHIBITS

Debtors request that this Court take judicial notice of the exhibits filed electronically on this Court's docket, and admit those exhibits without separate physical introduction, which the Debtors may use as exhibits at the Hearing:

<b>EXHIBIT<sup>2</sup></b>	<b>EXHIBIT DESCRIPTION</b>	<b>OFFERED</b>	<b>ADMITTED</b>
Debtors Exhibit 1	Schedule of Cash Receipts and Disbursements		
Debtors Exhibit 2	Deposition Transcript of Robert Nipper (June 15, 2020)		
Debtors Exhibit 3	Debtors' Rule 30(b)(6) Notice of Deposition to Repeat Precision, LLC		
Debtors Exhibit 4	Letter from Grant Martin to UMB. UMB_00032856		
Debtors Exhibit 5	UMB notes re: 6-11-20 phone call with Congressman Williams. UMB00032855		
Debtors Exhibit 6	UMB 6-11-20 email from Michael Garner re: phone call to Mariner. UMB_00032857		

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<sup>2</sup> For purposes of consistency and clarity, Exhibits 1 through 3 are a continuation from the June 23 hearing. *See* Docket No. 208.

Debtors Exhibit 7	Voicemail from Congressman Williams to UMB Representative		
Debtors Exhibit 8	[Intentionally Omitted]		
Debtors Exhibit 9	[Intentionally Omitted]		
Debtors Exhibit 10	6-12-20 email from Hirsch to Rukavina re: call		
Debtors Exhibit 11	[Intentionally Omitted]		
Debtors Exhibit 12	6-30-20 email from Hirsch to Rukavina re: follow-up. Repeat Precision_004014		
Debtors Exhibit 12-1	6-30-20 email from Rukavina to Hirsch re: Follow up reply. Repeat Precision_004033.		
Debtors Exhibit 12-2	6-30-20 email from Rukavina to Hirsch re: follow up. Repeat Precision_0040919 - 004021		
Debtors Exhibit 12-3	6-30-20 email from Hirsch to Rukavina re: follow up. Repeat Precision_004022 - 24		
Debtors Exhibit 12-4	6-30-20 email from Rukavina to Hirsch re: follow up. Repeat Precision_004025 - 27		
Debtors Exhibit 13	Hearing transcript from 6-23-20 hearing		
Debtors Exhibit 14	Russell Nelms Declaration [Docket No. 333]		

Debtors Exhibit 15	5-27-20 Email from Repeat re: UMB Bank Timeline forwarded to Williams chief of staff. Repeat Precision 005094		
Debtors Exhibit 16	Text messages to Congressman Clever re: meet up and discussion. Repeat Precision 005083 - 87		
Debtors Exhibit 17	Text messages to Congressman Williams. Repeat Precision 005088 - 93; Repeat Precision 005106 -08		
Debtors Exhibit 18	6-24-20 email from Hirsch to Rukavina re: settlement conference. Repeat Precision 003936 - 40		
Debtors Exhibit 19	Deposition Transcript of Robert Nipper (July 23, 2020)		
Debtors Exhibit 20	Deposition Transcript of Gary Martin (July 23, 2020)		
Debtors Exhibit 21	Deposition Transcript of Grant Martin (July 23, 2020)		
Debtors Exhibit 22	Deposition Transcript of Kyle Hirsch (July 22, 2020)		
Debtors Exhibit 23	Deposition Transcript of Michael Garner (July 22, 2020)		
Debtors Exhibit 24	Deposition Transcript of Lee Anderson (July 22, 2020)		
Debtors Exhibit 25	Deposition Transcript of Corporate Representative of Repeat Precision.		
Debtors Exhibit 26	Deposition Transcript of Congressman Williams (July 25, 2020)		

	Any document which any other party introduces; and		
	Any exhibit necessary to rebut the evidence or testimony of another party.		

The Debtors ask that the Court take judicial notice of the pleadings and transcripts filed (including any and all schedules, amendments, exhibits, and other attachments thereto) in the proceedings before this Court. The Debtors reserve the right to use additional demonstrative exhibits as they deem appropriate in connection with the Hearing. The Debtors reserve the right to amend and/or supplement this *Witness and Exhibit List* at any time prior to the hearing.

Dated: July 23, 2020

Respectfully submitted,

**FOLEY & LARDNER LLP**

/s/ Marcus A. Helt

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INDUSTRIES, INC., *et al.***

**CERTIFICATE OF SERVICE**

I certify that, on July 23, 2020, a true and correct copy of the foregoing motion was served via CM/ECF to all parties authorized to receive electronic notice in this case.

/s/ Marcus A. Helt

Marcus A. Helt